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OFFICIAL

PATENT

Attorney Docket No. GB919990026US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 12 2004

In re Patent Application of

Henry Esmond Butterworth

Serial No: 09/338,035

Filed: June 22, 1999

For: DATA PROCESSING SYSTEMS
AND METHOD FOR PROCESSING TASKS IN
SUCH SYSTEMS

Examiner: Kenneth TANG

Art Unit: 2127

CERTIFICATE OF SUBMISSION BY FACSIMILE

PTO FAX NUMBER: 703-872-9306

TOTAL NUMBER OF PAGES: 3

Dear Sir:


I hereby certify that the following documents are being transmitted to the U.S. Patent and Trademark Office on the date shown below:

1. REQUEST FOR RECONSIDERATION (2 pages); and
3. This CERTIFICATE OF SUBMISSION BY FACSIMILE (1 page).

If you did not receive all the pages, please telephone us at 718-544-1110, or fax us at 718-544-8588.

Respectfully submitted,

Dated: February 13, 2004


Ido Tuchman, Reg. No. 45,924
Law Office of Ido Tuchman
69-60 108th Street, Suite 503
Forest Hills, NY 11375
Telephone (718) 544-1110
Facsimile (718) 544-8588

#18
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REQUEST FOR RECONSIDERATION

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Request for Reconsideration is in response to the Decision
mailed January 6, 2004.

Statement of the Facts:

The above-referenced application was abandoned for failure to
respond to the Final Office Action dated February 14, 2003 within the
six-month statutory period ending August 14, 2003.

On August 14, 2003, a massive power outage occurred across much of
the north-eastern United States, including the office of Ido Tuchman.
Power was not restored to the office of Ido Tuchman until August 15,
2003.

On August 15, 2003, a Request for Continued Examination, Amendment
and Response to the Final Office Action, and proper fees were filed by
Express Mail. A Declaration in Support of Petition to Revive Abandoned
Application signed by Ido Tuchman and filed August 18, 2003 states, in
part:

7. The blackout prevented me from printing and filing by
Express Mail the Request for Continued Examination, Amendment and
Response to Final Office Action, and associated papers on August
14, 2003.

8. But for the blackout, I would have printed and filed by
Express Mail the Request for Continued Examination, Amendment and

Response to the Final Office Action, and associated papers on August 14, 2003.

Response to Decision:


According to 35 U.S.C. § 133, "Upon failure of the applicant to prosecute the application within six months after any action therein . . . the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable." 35 U.S.C. § 133 (emphasis added). Petition may be taken to the Director in cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director. 37 C.R.F. § 1.181.

In the Decision, the Examiner found that the practitioner's statements in paragraphs 7 and 8 negate the attempt to have the correspondence accepted as timely due to postal service interruptions. Decision, page 2. The Decision adds, "Specifically, the practitioner acknowledges that other exigencies, such as the unavailability of computer equipment precluded the timely filing of the correspondence." Id.

The Applicant agrees that the power outage of August 14, 2003 created other exigencies beyond USPS service interruption, such as the unavailability of computer equipment that prevented timely filing of correspondences in the present application. Nevertheless, it is respectfully submitted that these other exigencies resulted in unavoidable delay of prosecution within the purview of 35 U.S.C. § 133. Furthermore, 35 U.S.C. § 133 provides the Director with the authority to revive applications that would otherwise become abandoned as a result of such unavoidable delay. In view of the above remarks, the Applicant requests reconsideration of the petition under 37 C.R.F. § 1.181 and that the holding of abandonment in the present application be withdrawn.

Respectfully submitted,

Dated: February 13, 2004


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